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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,207	01/05/2001	Tao Chen	010098	5300
23696 7590 07/10/2008 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER				
NGUYEN, TU X				
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE		DELIVERY MODE		
07/10/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/755,207

Applicant(s)

CHEN ET AL.

Examiner

TU X. NGUYEN

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/5/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Regarding Applicant argument even if the Examiner is correct about the relative transmit powers, the rescue PSMM message is a different message than the normal PSMM message, and the combination of two distinct messages cannot be used to read on the single PSMM message, Bonta explicitly defines the PSMM in col.3 lines 11-16, this passage clearly shows that rescue PSMM is different than the normal PSMM. The Examiner agrees, the rescue PSMM may have additional information as Applicant interpreted and power increment, this description is not different than the claim subject matter.

The examiner apologizes for inadvertently excluding new claims 10-21 in the last final office action. Below is set forth for claims 10-21 rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 8-21, are rejected under 35 U.S.C. 102(e) as being provisional anticipated by Bonta et al. (US Patent 6,337,983).

Regarding claims 1, 6 and 18, Bonta et al. discloses a method for call recovery wherein a mobile terminal's transmit power is not controlled by a base station during call recovery, comprising:

transmitting a pilot strength measurement message from a mobile terminal at a first transmit power level determined by the mobile terminal (col.11 lines 17-18, fig.4 steps 622, 627);

waiting a predetermined time period during which call recovery is not completed (see fig.3-4, steps 607, 611, 620, 629-31, col.11 lines 23-24); and

transmitting the pilot strength measurement message at a second transmit power level determined by the mobile terminal, wherein the second transmit power level is greater than the first transmit power level (see fig.4, step 632, col.13 lines 44-46).

Regarding claim 4, Bonta et al. disclose a method comprising:

Initiating a call recovery from a mobile terminal wherein the mobile terminal's transmit power is not controlled by a base station during call recovery (see fig.3, steps 601-607); and

Transmitting a pilot strength measurement message from the mobile terminal at a first transmit power level determined by the mobile terminal, which first transmit power level is less than a maximum transmit power level (see fig.4, steps 622, 627); and

Incrementing a transmit power level from a mobile terminal prior to receiving a hand-off direction message (see fig.4, step 632, col.11 lines 50-59).

Regarding claims 2, 12, 16 and 20, Bonta et al. discloses the second transmit power level is a maximum transmit power level (see col.7 lines 35-36).

Regarding claim 3, Bonta et al. disclose a computer program stored on a computer readable medium (see col.1, a computer program is inherent in a computer readable medium such as mobile device and base station).

Regarding claim 4, the modified Chheda et al. discloses everything as claim 1 above. More specifically, the modified Chheda et al. disclose incrementing a transmit power level prior to receiving a hand-off direction message (see Chheda et al. col.11 lines 3-22).

Regarding claim 5, Bonta et al. disclose transmitting a pilot strength measurement message at each transmit power level (see col.11 lines 12-40).

Regarding claims 6, 13, 17 and 21, Bonta et al. disclose the pilot strength measurement messages are transmitted at predetermined time intervals (see col.11 lines 36-40).

Regarding claim 8, Bonta et al. disclose every thing as claim 1, and further Bonta inherently disclose an antenna and a processor couple to the antenna of a mobile terminal as a computer readable medium in order to carry out the tasks described in claim 1.

Regarding claim 9, Bonta et al. disclose maintain the transmit power below a maximum power level (see 627, 628, fig.4).

Regarding claim 10, Bonta et al. disclose a computer-readable medium including instructions executable by a processor, the computer-readable medium comprising: a first set of computer-readable instructions executable by the processor to transmit a pilot strength measurement message from a mobile terminal at a first transmit power level determined by the mobile terminal, the mobile terminal's transmit power not being controlled by a base station; a second set of computer-readable instructions executable by the processor to increment the first transmit power level to a second transmit power level after waiting a given time period during which call recovery is not completed, the increment being determined by the mobile terminal; and a third set of computer-readable instructions executable by the processor to transmit the pilot strength measurement message from the mobile terminal at the second transmit power level, the second transmit power level being greater than the first transmit power level (col.11 lines 17-18, fig.3-4, it is inherent a processor and software programming the algorithm of power control and communication with the base station).

Regarding claims 11, 15 and 19, Bonta et al. disclose a fourth set of computer-readable instructions executable by the processor to maintain the transmit power below a maximum power level (see fig.3, steps 601-610).

Regarding claim 14, Bonta et al. disclose apparatus for power level adjustment in a wireless communication system, comprising: means to transmit a pilot strength measurement message from a mobile terminal at a first transmit power level determined by the mobile terminal, the mobile terminal's transmit power not being controlled by a base station; means to increment the first transmit power level to a second transmit power level after waiting a given time period during which call recovery is not completed, the increment being determined by the mobile terminal; and means to transmit the pilot strength measurement message from the mobile terminal at the second transmit power level, the second transmit power level being greater than the first transmit power level (see fig. 3-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bonta et al. in view of Dalal (US Paten 6,633,554).

Regarding claim 7, Bonta et al. fail to disclose the pilot strength measurement message includes a preamble message.

Dalal disclose the pilot strength measurement message includes a preamble message (see col.7-20). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bonta et al. with the above teaching of Dalal in order to provide a preamble message to be transmitted over traffic channel).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu X Nguyen/

Patent Examiner, Art Unit 2618

6/30/08

/Edward Urban/

Supervisory Patent Examiner, Art Unit 2618